

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	DA 02-1740
)	
Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby files its reply comments in the above-captioned proceeding.² The comments filed on August 5 support NTCA's request that the Commission deny Sprint's petition.

I. THE COMMISSION SHOULD DENY SPRINT'S REQUEST BECAUSE THE ISSUES AT STAKE ARE PENDING IN OTHER PROCEEDINGS

The parties overwhelmingly agree that this dispute involves intercarrier compensation instead of numbering resources.³ NTCA agrees with rural ILECs commenting that Sprint's request is an attempt to avoid the implications of Commission interconnection rules, state laws

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 550 rural rate-of-return regulated telecommunications providers. All of its members are full service incumbent local exchange carriers (ILECs), and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). And all of NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92, DA 01-1740, Public Notice (rel. July 18, 2002).

³ See, e.g., Comments of SBC Communications, Inc., at 1, Dobson Communications Corporation at 2.

and regulations.⁴ The array of comments in the proceeding demonstrate that a single declaratory ruling would have far reaching implications for rural carriers as well as others involved in the provision of telecommunications services. The Commission should deny Sprint's request. The issues raised by the request are pending in the Intercarrier Compensation docket.⁵ A premature decision on the request for declaratory ruling would harm rural telephone companies. The Commission should not rush to judgment on Sprint's request or grant it. A grant would involve new interpretation of existing rules and policy shifts that could have significant long term implications on fair compensation for interconnection. Moreover, as some parties have indicated, the petition should not be viewed in isolation because related issues and conflicting outcomes are at stake in ongoing state proceedings and in ongoing negotiations between various telecommunications carriers.⁶

II. SPRINT'S REQUEST IS BASED ON AN ERRONEOUS INTERPRETATION OF THE TELECOMMUNICATION ACT, COMMISSION REGULATIONS AND INDUSTRY PRACTICE

CTIA argues that the Commission has plenary authority to regulate LEC-CMRS interconnection under Section 332 of the Communications Act, as amended (Act).⁷ Ignoring completely the fact that this particular dispute affects LEC to LEC interconnection arrangements, CTIA urges the Commission to exercise its Section 332 authority and grant the petition.⁸

The Commission has already wisely rejected the position CTIA promotes. A change

⁴ See, Fred Williamson at 4.

⁵ *Id.*

⁶ Comments of Texas Statewide Telephone Cooperative, Inc., at 1, Oklahoma Rural Telephone Companies at 3, and NTCA at 2.

⁷ CTIA Comments at 4, citing 47 U.S.C. § 332.

⁸ See Comments of Texas Statewide Telephone Cooperative, Inc., stating that virtual NXX requests are also a CLEC issue.

would constitute an entirely new policy direction. In the *Local Competition Order*,⁹ the Commission chose to rely on Sections 251 and 252 as the jurisdictional basis for regulation of LEC-CMRS interconnection rates.¹⁰ In that same proceeding, the Commission explained the different obligations of telecommunications carriers under Section 251. Sprint supported by AT&T and others relies on Sections 251(a) and 251(c) for the proposition that the Sprint requested “indirect” arrangement is mandated.¹¹ The Commission, however, has made it clear that the interconnection obligations of rural telephone companies subject to the exemption in 251(f) are circumscribed by that section and confined to section 251(a).¹²

In explaining the difference between interconnection under Section 251(c) and 251(a), the Commission noted that incumbent LECs may have a duty to interconnect at “all technically feasible points” but 251(a) only imposes upon carriers the duty to interconnect “either directly or indirectly,” based upon their most efficient technical and economic choices [Emphases added].¹³ Sprint also indirectly asserts that its request meets the reasonableness requirement of 47 C.F.R. § 20.11(a). As shown below, it is not reasonable to request arrangements that ignore federal and state laws and regulations as well as industry practice.

NTCA disagrees with Dobson and others who contend that CMRS carriers may pursuant to 251(a) unilaterally choose what they deem to be the point of interconnection that is the most efficient technical and economic choice for them.¹⁴ If the Commission were to accept this interpretation of Section 251(a), the remainder of Section 251, and especially Section 251(f)

⁹ *In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd 16005 (1996) (*Local Competition Order*).

¹⁰ *Id.*

¹¹ Sprint Petition at 15-16, AT&T Comments at 4.

¹² *Local Competition Order*, n.2349.

¹³ *Local Competition Order* at 15991.

would be rendered meaningless. The Commission has made it clear that the general duty in Section 251(a) is narrower than the duty to establish interconnection points under Section 251(c). Neither Section 251(a) nor Section 251(c) should be interpreted to defeat Section 251(f) which exempts rural telephone companies from the duty to comply with Section 251(c) and regulations implementing that section, Subpart D of Part 51 of the Code of Federal Regulations. Among other things, Subpart D requires ILECs not exempt under Section 251(f) to provide interconnection “at any technically feasible point within the incumbent LECs network [Emphases added].”¹⁵ Thus, even carriers subject to 251(c) have limited obligations with respect to the arrangements Sprint seeks. Grant of the petition would foist 251(c) obligations onto rural carriers that have no obligations to interconnect “at any technically feasible point.” For this reason, the Commission should deny the petition.

CMRS providers complain that they may be forced to construct dedicated facilities in order to complete calls if the petition is not granted.¹⁶ These complaints overlook the total scheme of Section 251, which contemplates a federal-state regime of good faith negotiations, different interconnection obligations for different types of carriers, adequate compensation for the transport and termination of traffic and continued enforcement of exchange access and interconnection requirements that predated the Telecommunications Act of 1996.

The mobile service providers’ complaint also overlooks the fact that their interpretation of the ILEC’s interconnection obligations involves disparate benefits to them and imposes additional costs and burdens on rural ILECs. Fred Williamson correctly points out the

14 Dobson Comments at 6.
15 47 C.F.R. 51.305(a)(2)
16 Dobson at 4-5.

uneconomic situation resulting from the Sprint proposed arrangement under which landline to mobile calls would appear as local calls even though they are carried beyond the ILEC local calling area or the MTA.¹⁷ The arrangement would permit CMRS providers to obtain free transport services from the ILEC and possibly require ILECs to pay transiting charges to intermediate carriers. In the meantime, CMRS providers would also receive compensation for terminating the traffic. This is totally contrary to the concept that local exchange carriers' obligations for interconnection are limited to their own network and service area.¹⁸ The practice in the industry is also that LECs receive access charges from carriers that utilize the LEC network to originate or terminate calls their customers calls. The Sprint proposal is a mechanism designed to avoid hand-off which is standard industry practice and to defeat statutorily recognized obligations in Section 251(g) and state laws which provide for access charges.

Sprint and other CMRS providers should also not be allowed to force extended area service arrangements through their proposed arrangement. The Commission's determination that all CMRS calls within the MTA are local was not intended to preempt state jurisdiction over LEC calling areas. CMRS providers desiring to advertise or offer their customers the benefit of a roaming local telephone number have other options and these better reflect the intent of Section 251. Carriers may negotiate appropriate interconnection agreements and compensation arrangements under Section 251(a) and (b) or under applicable state laws and regulations that provide for area wide calling.

Sprint's petition illustrates the need for the Commission to reiterate existing policy while it denies the petition. John Staurulakis, Inc. (JSI) has suggested five policy statements that

¹⁷ Williamson Comments at 5.

should be adopted.¹⁹ NTCA urges the Commission to adopt these policies as they reaffirm industry practices as well as existing policy, and they reflect the purposes of Sections 251(a)(b)(c) and (g).

III. CONCLUSION

For the above stated reasons, NTCA supports denial of the Sprint petition.

Respectfully submitted,

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18 See Comments of Alliance of Incumbent Rural Telephone Companies at 5.
19 Comments of John Staurulakis, Inc. at 15.

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in CC Docket No. 01-92, DA 02-1740, was served on this 19th day of August 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

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